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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 12, 2001

ORIGINAL

Memorandum of Ex Parte Communication

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325-Lobby
Washington, D.C. 20554

Dear Ms. Salas:

Re: CC Docket No. 98-147, Deployment of Wireline Services Offering
Advanced Telecommunications Capability and
CC Docket No. 96-98, Implementation of the Local Competition Provisions
of the Telecommunications Act of 1996

On Wednesday, April 11, 2001, Matthew Adams – General Manager, Network Regulatory - Collocation, Christopher Heimann – General Attorney and the undersigned made an ex parte contact in reference to the above-listed proceedings. In attendance from the Commission were Glenn Reynolds, Deputy Chief of the Common Carrier Bureau, Jared Carlson of the Common Carrier Bureau, Brent Olson, Deputy Chief of the Policy Division, and William Kehoe III Special Counsel - Policy Division.


During the meeting, we explained SBC's belief that the Opinion of the United States Court of Appeals for the District of Columbia Circuit, decided March 17, 2000, precludes the FCC from reestablishing rules that *require* ILECs to allow:

- collocation of multifunctional equipment beyond that necessary for interconnection or access to unbundled network elements,
- cross-connections between CLEC collocation arrangements and
- CLECs to select locations for collocated equipment within ILEC central offices.

The attached materials were discussed during the meeting. We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section 1.1206 of the Commission's rules.

Please include a copy of this submission in the record of the above-listed proceedings. Also, please stamp and return the provided copy to confirm your receipt. You may contact me at (202) 326-8889 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Bennett". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Attachment

cc: G. Reynolds
J. Carlson
B. Olson
W. Kehoe



SBC Collocation Ex-Parte

April 11, 2001





CLEC to CLEC Connections

- ✓ “One clear example of a problem that is raised by the breadth of the Collocation Order’s interpretation of ‘necessary’ is seen in the Commission’s rule requiring LECs to allow collocating competitors to interconnect their equipment with other collocating carriers. . . . The obvious problem with this rule is that the cross-connects requirement imposes an obligation on LECs that has no apparent basis in the statute. . . . The statute requires LECs to provide physical collocation of equipment as ‘necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier,’ ***and nothing more.***”





CLEC to CLEC Connections

- ✓ Not necessary for interconnection to the ILEC or access to the ILEC's UNEs.
- ✓ SBC offers voluntarily in two ways.
 - ✓ CLECs are responsible for the direct connections.
 - ✓ SBC will perform the CLEC to CLEC connection at access rates.
- ✓ CLECs can achieve the same result via a shared arrangement or at the CLECs own premises or location of their choosing.





Equipment

- ✓ “There are other examples, as well, to demonstrate that the FCC’s interpretation of ‘necessary’ under § 251(c)(6) is impermissibly broad. . . . [T]he literal terms of the Collocation Order seem to embrace any and all equipment that is otherwise necessary without regard to whether such equipment unnecessarily *‘includes a switching functionality, provides enhanced service capabilities, or offers other functionalities.’*” (emphasis in original)





Equipment

- ✓ Court states that the meaning is clear that equipment must be "...necessary, required or indispensable" for interconnection or access to UNEs of the ILEC.
- ✓ Any requirement on the ILEC to allow that which is not "necessary" is an improper taking of property.
- ✓ Advanced Services Equipment - As described in the SBC/ Ameritech Merger Conditions.
- ✓ Other Multifunctional Equip. - Cannot be required, regardless of efficiency or cost arguments. ILEC may mutually agree to other equipment. SBC voluntarily allows collocation of an RSM (with limitations).
- ✓ Ancillary Equipment - Cannot be required. SBC may allow if only to support and be used with equipment that the CLEC has legitimately collocated in the same premises and as mutually agreed. No common systems equipment such as HVAC, power plants, battery distribution fuse bays (BDFB), independent frames, etc.
- ✓ No stand-alone switches or enhanced services equipment.





Placement of Collocation

- ✓ “It is one thing to say that LECs are forbidden from imposing unreasonable minimum space requirements on competitors; it is quite another thing, however, to say that competitors, over the objection of LEC property owners, are free to pick and choose preferred space on the LEC’s premises, subject only to technical feasibility. *There is nothing in § 251(c)(6) that endorses this approach.*”





Placement of Collocation

- ✓ Only the ILEC, as property 'owner' has the right to determine location placement.
- ✓ ILEC's right to protect its equipment and network. Security violations are real.
- ✓ ILEC's right to effectively and efficiently manage the space at its premises.
- ✓ Technically infeasible for CLECs to efficiently plan their placement. Only the ILEC would have all the information (CLECs and ILEC) required to layout an office.





Separate Entrances

- ✓ “The FCC offers no good reason to explain why a competitor, as opposed to the LEC, should choose where to establish collocation on the LEC’s property; nor is there any good explanation of why LECs are forbidden from requiring competitors to use separate entrances to access their own equipment; nor is there any reasonable justification for the justification for the rule prohibiting LECs from requiring competitors to use separate or isolated rooms or floors.”





Separate Entrances

- ✓ The DC Circuit vacated the prohibition on requiring separate entrances for CLECs because the requirement is not reasonable or just to the ILEC.
- ✓ SBC does not build new, separate entrances. SBC does modify existing entrances for CLEC use to ensure security of the ILEC's network reliability and property.
- ✓ SBC Telcos require its own non-authorized employees to use separate entrances and secured pathways unless escorted by an authorized employee.

